

REMARKS

Claims 1, 2, 4-6, 8, 10, 11, 13, 15-18, and 22-40 were pending in the application. All claims are currently rejected. Claims 17, 24, and 35 have been amended. Claims 18 and 31-34 have been cancelled. New claim 41 has been added. Claims 1, 2, 4-6, 8, 10, 11, 13, 15-17, 22-30, and 35-41 are now pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the following remarks.

I. Telephone Interview with SPE Tom Will

Applicant wishes to thank SPE Will for his time and courtesy in discussing the present application on January 27, 2005. Specifically, Applicant and SPE Will discussed the propriety of amending claim 17 to 1) delete the “safety mechanism” limitation, and 2) add the limitations of dependent claim 32. Applicant and Examiner Will further discussed the propriety of adding new claim 41 as a combination of claims 34 and 17 (without the “safety mechanism” limitation).

Examiner Will opined that the proposed amendment to claim 17 and new claim 41 remove issues for appeal (as discussed below), and are thus proper amendments After Final.

II. Notice of Appeal

Applicant encloses herewith a Notice of Appeal to preserve Applicant’s right to file an Appeal Brief to the Board of Patent Appeals and Interferences.

III. Claim Amendments

Claims 17, 24, and 35 have been amended in a manner to remove issues for appeal. Specifically, claim 17 has been amended delete the “safety mechanism” limitation which the Examiner objected to in the March 3, 2003 Office Action. Furthermore, because a claim limitation was removed from claim 17, Applicant asserts that an issue has been removed from the application for purposes of an appeal (i.e., to support a rejection of claim 17, one less limitation is required to be shown in the prior art). Claim 17 has further been amended to incorporate the limitations of claim 32 (now cancelled). Because claim 32 depended directly from claim 17, Applicant asserts that no additional issues have been raised for appeal by way of the Amendment to claim 17.

Claim 24 has been amended to correct a grammatical error, and specifically “wherein ,” has been changed to “wherein”.

Claim 35 has been amended to correct a spelling error, and specifically “augur” has been changed to “auger”.

Because the amendments to claims 17, 24, and 35 merely remove issues for appeal, Applicant respectfully requests that they be entered into the record.

IV. Cancelled Claims

Applicant has cancelled claims 18 and 31-34, thereby removing issues for appeal.

V. New Claim

Applicant has added new claim 41 which is a combination of claim 17 (with the “safety mechanism” deleted to remove issues for appeal) and dependent claim 34 (now cancelled). Because claim 34 depended directly from claim 17, Applicant asserts that no additional issues have been raised for appeal by way of new claim 41.

VI. Conclusion

Applicant believes that all pending claims are patentable over the cited prior art for reasons articulated throughout the prosecution history. Alternatively, the pending claims are presented for consideration on appeal.

The Examiner is invited to contact the undersigned at the number below if such would advance the prosecution of this application.

Applicant hereby authorizes the Commissioner to charge the \$700 fee, including \$500 for the Appeal Brief and \$200 for the addition of one independent claim greater than three, along with any additional fees required for this or any other communication, to Deposit Account No. 17-0055.

Respectfully submitted,
Dennis P. Silver

By: Adam J. Forman
Adam J. Forman
Reg. No. 46,707
Attorney for Applicant
Quarles & Brady
411 E. Wisconsin Avenue, Suite 2040
Milwaukee WI 53202-4497
(414) 277-5405

MKE\5688216